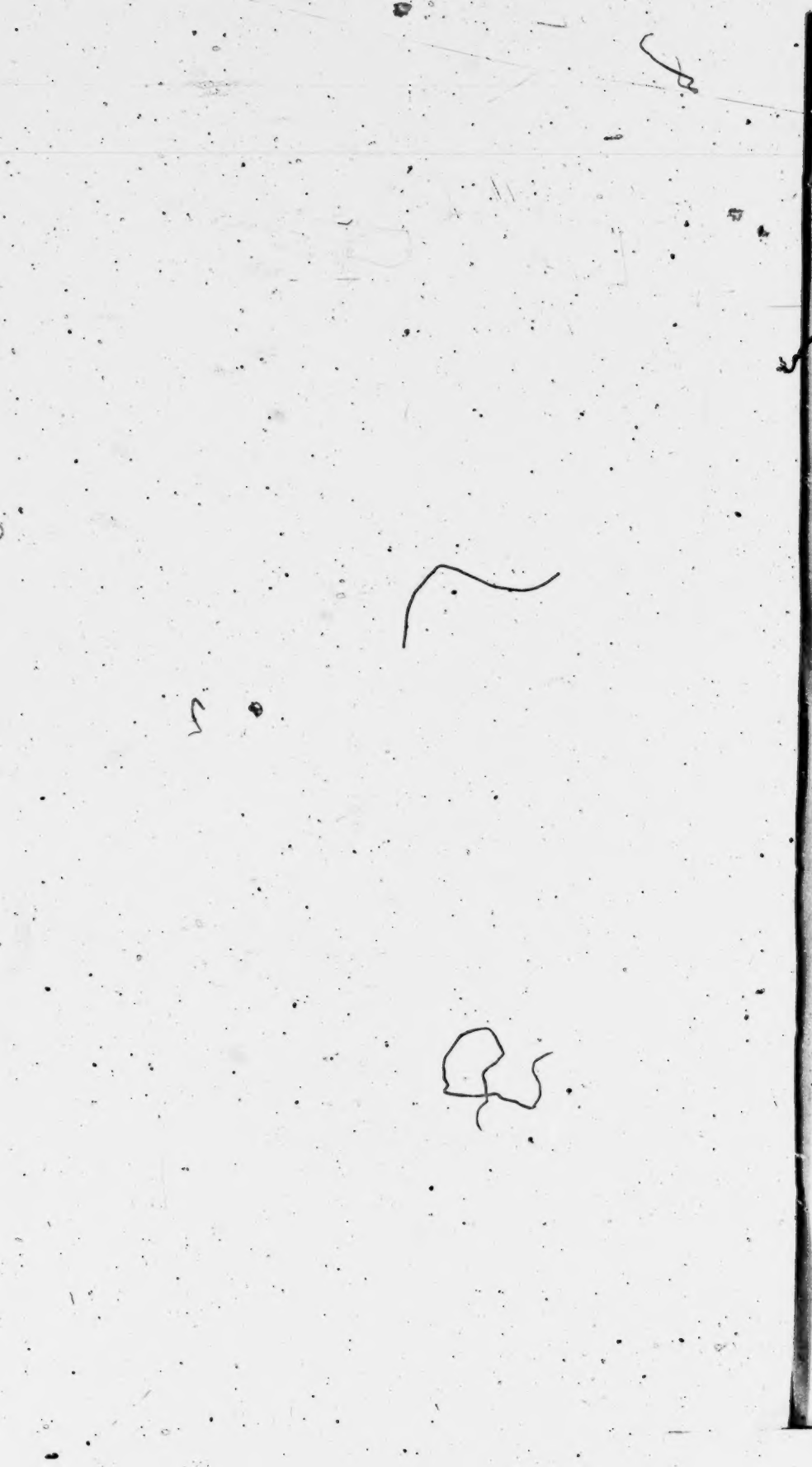

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AUG 13

CHARLES ELMORE CROPLEY

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

No. 510

C. H. COCHRAN,

Petitioner,

vs.

THE STATE OF KANSAS, AND MILTON F. AMRINE, WARDEN KANSAS STATE PENITENTIARY.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF KANSAS AND BRIEF IN SUPPORT THEREOF.

C. H. COCHRAN,
Pro Se.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

No. 510

C. H. COCHRAN,

vs. *Petitioner,*

THE STATE OF KANSAS, AND MILTON F. AMRINE,
WARDEN KANSAS STATE PENITENTIARY.

APPLICATION FOR WRIT.

Comes now your petitioner of the above entitled cause, to the Supreme Court of the United States of America, Who respectfully contends that he is being unlawfully restrained, held to involuntary Servitude by Milton F. Amrine, Warden of the Kansas State penitentiary, and that the Cause or pretense of Cause is a Mittimus or Commitment issued by the District Court of Sumner County, Kansas, and the petitioner respectfully contends that the District Court of Sumner County, Kansas Violated every cardinal Principle in its trial of the petitioner and that the respondent Milton F. Amrine, and Predecessors, Wardens of the Kansas State Penitentiary, Denied unlawfully by illegally intercepting "Impounding" and Seizure of the petitioners Appeal Documents and therefore denying Petitioner his timely Appeal from the errors of the trial Court.

1y

Wherefore: the petitioner filed an application for Writ of Habeas Corpus into the Supreme Court of Kansas, to which your petitioner complains that the Supreme Court of Kansas refused to properly hear the petition or Writ and never permitted the pertinant evidence or testimony to be entered into the record for any reviewal and his lawful right, and the Opinion of the Supreme Court of Kansas is Null, Void and without Lawful force for the following reasons; to-Wit:

I.

The records will show where the petitioner properly moved the Kansas Supreme Court for Appearance to Submit his evidence to the Court after the procedure held to be the only admissible procedure in Habeas Corpus, Which denied and ordered petitioner to Submit on abstract and brief.

II.

The records will show that the petitioner was unlawfully denied a hearing of his petition, and the right to introduce his testimony and witnesses to Support his petition was denied.

III.

The records will show that evidence, pleading and filings material to support the petition was Stolen and "Impounded" by the Respondent, and never reached the court, and that the Supreme Court of Kansas was duly notified of such unlawful Seizure of filings and was moved to Cite Respondent for contempt.

IV.

The petitioner respectfully contends that his right to a lawful hearing on the Writ, the right to Submit his evidence, the right to judicial inquiry, Witnesses and examine all records, evidence pleadings of Respondent was Denied.

Therefore: your petitioner respectfully moves and prays the Honorable Supreme Court of the United States, to let issue upon the Supreme Court of Kansas the prerogative Writ of Certiorari, that the Supreme Court of the United States may examine the said errors of the Kansas Supreme Court, and order the said Kansas Supreme Court to allow the petitioner his lawful Liberty.

Respectfully submitted,

C. H. COCHRAN,
Petitioner, Pro Se:
Forma Pauperis.

PETITIONER'S BRIEF.

The petitioner was convicted of 2nd degree Forgery by the District Court of Sumner County, Kansas, and was sentenced to a life term in the Kansas State Penitentiary.

The petitioner filed an application for Writ of Habeas Corpus in the State Supreme Court of Kansas Alleging that the trial Court denied the petifioner due process of Law, That the Arguement for a new trial was argued during his absence, that he was subsequently denied his timely appeal by the officers and agents of the State of Kansas and the State Penitentiary by unlawful Seizure, Confiscation and impounding of said appeal documents, On or about January 3rd, 1941, the petitioner Appealed the petition from the Current Jurisdiction, without any kind of a hearing, into the Supreme Court of Kansas. The court declined to review the application and returned the application to your petitioner 3 Seperate times. The Honorable District Court of the United States instructed the Supreme Court of Kansas to hear the Writ.

The case was docketed for April 10th, 1941, and thereupon passed by the court until May 5th, 1941.

During the date of filing until the Supreme Court rendered its opinion, the respondent deliberately confiscated, seized, and impounded most of *materiál* evidence and pleadings addressed to the court, after stripping petitioner of its affidavits. After being informed of the unlawful seizure the petitioner notified the court of such acts of the respondent and moved that order be issued to call evidence into the court. The petitioner sent to the court a witness and the courts said, "They washed their hands of the whole mess."

The petitioner then moved for his appearance before the court and made application by another writ of habeas corpus, making the Chief Justice of the Supreme Court the respondent, for his appearanee, all of the petitioners

efforts to bring evidence, witnesses and records before the court was denied.

The court ordered the petitioner to submit his case by brief and abstract, which was included copies of 7 affidavits, upon inquiry these affidavits never reached the court clerk after going thro the censorship of the respondent. Wherefore he had used his authority as warden of the Kansas State Penitentiary, and did remove all pertinant evidence.

The Supreme Court of Kansas did upon such information and knowledge denied the petitioner the right of his lawful defense and witnesses in support of his petition and denied the writ.

In *Walker* v. *Johnson*, 61 Sup. Ct. Repr. 574, the court said:

> If an issue of fact is presented, the practice appears to have been to issue the writ, have the petitioner produced, and hold a hearing at which evidence is received.
>
> This we think, the only admissible procedure, nothing else will satisfy the command of the Statute, that the judge shall proceed "To determine the facts of the case, by hearing the testimony and arguement." "A prisoner in custody may have judicial inquiry into the very truth and substance of the causes of his detention." "Such a judicial inquiry involves the reception of testimony as the language of the Statute Shows."
>
> Cited *Supra.*
>
> *Johnson* v. *Zerbst*, 304 U. S. 458, 466;
>
> *Smith* v. *O'Grady*, 312 U. S. 329.

The petitioner alleges that he moved the court to hear the writ that the witnesses could give material testimony in support of the writ.

In *Walker* v. *Johnson*, 61 Sup. Ct. Rep. 574. Paragraph 5-6.

The Court Concluded:

(5) Petitioner for the writ of habeas corpus has on a hearing the burden of sustaining his allegations by preponderance of evidence.

(6) Denials in affidavits filed with the return to the rule to show cause why a Writ of Habeas corpus should not issue, of allegations in the petition, only serve to make the issues, which must be involved by the evidence taken in the usual ways and can have no other office: And the affidavits must be subjected to examination *ore tenus* or by deposition.

Mooney v. *Holohan Supr.*, 294 U. S. 103, 113.

The petitioner respectfully contends that in his motion for appearance he assured the court that it was necessary to appear to introduce his evidence and witnesses to prove the allegations set forth therein.

Seized Evidence.

The petitioner respectfully contends and can definitely show by pertinant evidence and witnesses, that affidavits, motions and pleadings were illegally confiscated by the respondent, in that said evidence was by order submitted to him for rigid censorship. Thereupon, were removed from the mail, and stripped from the petition.

Right of Appeal From Trial Court.

The petitioner contends that it was his constitutional right to appeal from the judgment and procedure used by the State in bringing about his conviction, and that the acts of the agents and officers of the State, in denying the appeal, was unlawful and unconstitutional. The petitioner sought to prove that during his incarceration in the Kansas State Penitentiary, he has been consistantly denied his timely appeal and proper redress in the Court. The petitioner respectfully contends that the Kansas State Supreme

Court denied this evidence to be introduced into the records. The petitioner further contends and can show by record that the Attorney General of Kansas, the Supreme Court of Kansas and the Wardens of the penitentiary has consistantly denied the petitioner all redress by timely actions in the Courts of Kansas.

Appeal from Court of Current Jurisdiction.

The petition at bar was filed in the District Court of Leavenworth County, Kansas, was denied without any hearing What-so-ever. The petitioner duly gave notice of his appeal to the Supreme Court of Kansas, after three attempts to get his petition into the court, the court filed on the 2nd day of January 1941, and the clerk notified the petitioner that his appeal documents had been filed by the clerk of the District Court of Leavenworth County, Kansas.

The opinion issued by the Supreme Court of Kansas on the 7th day of June 1941, shows that said appeal was not before the court, and was therefore denied. Court records will show that such records on appeal was mishandled by the District Court of Leavenworth County. Kansas, in its preparation of said appeal papers.

Kansas Supreme Court as Party to Action in Denial.

The petitioner respectfully contends that from 1933 to the present time, the officers of the Supreme Court of Kansas has by such actions in its denial of the petitioners constitutional rights and the right to be heard on the petition of Writ of Habeas Corpus and the petitioners allegations therein, which duly accuses the court and other officers and agents of the State, Barring the petitioner from his rights.

12 R. C. L. 1180, 1236: 2 R. C. L. Supp. 1569.

The Writ of Habeas Corpus is a Writ of right, and is sometimes issued upon very informed applications.

> Motion to Quash the writ does not lie because of mere formal defects in the petition upon which it was issued; the inquiry in such cases bring not the technical formality of the showing made to the court for the issuance of the Writ, but as to the legality of the alleged detention of the prisoner.

The petitioner contends that he has never been able to present his evidence and witnesses to the court upon the allegations set forth in the application.

Evidence and Witnesses.

The petitioner respectfully contends that his evidence was unlawfully confiscated, seized and impounded by the respondent and other officers and agents of the State, and that the court upon short notice, denied the petitioner the right to appear and produce material witnesses to prove his petition.

But the petitioner contends that he ordered his witnesses into the court for the purpose of the hearing which was denied.

Judgment of Trial Court.

The petitioner respectfully contends that the judgment of the District Court was violative of the statutory provisions and that the trial court went beyond its jurisdiction in its adjudication.

The petitioner made every effort to being before both trial Court and the Supreme Court, that the trial court prevented the defendant from showing that the findings of previous incarceration by the trial court was violative, of statutory provisions, and that the previous commitment was unconstitutional, in that the defendants Mother and not defendant entered the plea of guilty, and put the defendant at the mercy of the court. The validity of the court, the validity of the previous commitment and not conviction, was and is void and unconstitutional.

The pertinent facts of the petitioners petition has been treated with disregard and is and has been a travesty of justice.

In Kansas Bill of Rights #20. Legislative Power not given to court.

And in:

Kansas Bill of Rights; Duty of the Courts to enforce rigid observance of Statute.

State v. *Snyder* 30 K. 758, 761, P. 523.

The petitioner respectfully contends that the trial court went beyond the statutory provision and grossly errored, all of which the Supreme Court of Kansas has passed without a lawful hearing and arbitrarily rendered its opinion without any kind of a hearing, and therefore denied pertinent evidence to be introduced in petitioner's behalf.

All of which is respectfully submitted.

C. H. COCHRAN,
Petitioner Pro Se:

Statement.

Comes now; the petitioner of the above entitled cause and respectfully contends that the records will reveal that the petitioner never has before, other than the case at bar, filed any proceeding in the District Court of Leavenworth County, never filed but (1) petition prior the case at bar, which was #32,802 *Cochran* v. *Simpson*, #143 K. 273, having no material bearing upon the case at bar. Petitioner was denied in fact an orderly procedure was denied and never was defended.

The former case filed in the United States District Court, No. 421-H-C was a direct challenge of the Habitual Criminal Statute, and not the errors of the trial court, the last case No. 651-H.-C. was withdrawn before a hearing to exhaust the State rights, and was the same petition #35.156

of the Supreme Court of Kansas and the same petition now at bar.

The petitioner contends that he has never brought the contents of the present petition before the Supreme Court or the United States District Court at any previous date, in fact never has any petition filed in the Supreme Court of Kansas given a lawful hearing or was the petitioner admitted before the court for judicial inquiry and to introduce evidence and witnesses, and that each petition was denied without so much as a hearing of any kind whatsoever.

The petitioner contends that each effort to introduce his evidence and motion for appearance was passed and denied and the Supreme Court set up its arbitrary Opinion, denying the petitioner his lawful defense. The petitioner contends that the petition #35,156 was refiled in the United States District Court on June 12th 1941 and was dismissed by motion, by the Honorable Richard J. Hopkins, without proof of any such filings and that at such time the motion was acted upon, there was no filings or pleadings showing certiorari proceeding being instituted and that same motion was made by misrepresentation of the State Attorney General.

Therefore the petition was denied and was never filed.

The petitioner further contends that he has only filed two petitions, and at no time was represented by counsel or self, and that the opinion of the court was contrary to the very principle of universal justice, by denying any and all defense to the petition, pertinent evidence and witnesses to support petition. The petitioner challenges the statement made by the Supreme Court of Kansas opinion as to the efforts previously made the petitioner, although the petitioner does show where the State of Kansas has unlawfully denied the petitioner his constitutional rights to exercise his appeal from the trial court. The petitioner did

show by record that such efforts were blocked and barred by the State, and the records were seized and impounded before they had reached the court and the petitioner duly notified the court of the seizure.

If the attached affidavits were not sufficient record to describe his efforts, then has the respondent duly shown where the petitioner had a trial.

The petitioner duly shows by record that the respondent and the State of Kansas, has taken unlawful advantage of the petitioner by such actions in which the evidence was seized.

Respectfully submitted,

C. H. COCHRAN,
Pro Se.

UNITED STATES SUPREME COURT

STATEMENT TO COURT:

The petitioner alleges that the purported conviction in the State of Minnesota is untrue and that at such time the petitioner was less than 16 years of age.

The petitioner alleges further that his mother entered the plea in the Tulsa District Court and that the court refused to appoint counsel, and that the petitioner was a Minor and did not enter the plea that committed him to the Oklahoma State Reformatory.

The petitioner alleges that this commitment was due to lack of finances to employ counsel, all of which petitioner is now able to show that he never committed the offense of Larceny of Automobile and that said Automobile was recovered in possession of another man, who pleaded guilty after the petitioner's commitment in 1920.

The petitioner alleges that he was not found guilty of any crime other than the conviction in 1928, from Sumner County, Kansas and 1933 from the same County, the only two *lawful* convictions and that the alleged convictions was

not *lawful,* but null and void for various reasons, the Supreme Court and respondent refused, denied and prohibited petitioner to introduce this evidence to support the petition for Habeas corpus.

For the correct age of your petitioner, See files in National Archives Washington D. C. Under William B. Cochran. Vet. Civil War. Division of pension.

Respectfully submitted,

C. H. Cochran.

AFFIDAVIT

STATE OF KANSAS,
County of Leavenworth, ss:

I, C. H. Cochran, being of lawful age and after being duly sworn, swears that the following statement is true:

On, or about, June 15, 1933, an appeal to the State Supreme Court had been prepared for filing into that court, on the process as was employed to convict the person C. H. Cochran, the Warden, Lacey M. Simpson and the Deputy Warden, A. J. Graham, confiscated the appeal papers.

On, or about, October 10th., 1934, another appeal was prepared to be filed in the case and under the orders of Mr. A. S. Foulks, Parole and Pardon Attorney and the Warden, Mr. Lacey M. Simpson, the Notary Public, R. D. Payne, refused to certify said papers to be filed in the appeal. After the time allowed by the State for timely appeals had been exhausted, I prepared a petition or application for a Writ of Habeas Corpus. This, too, was denied permission to file and again the Notary Public refused to certify by the order of the Board of Administration, Warden and Pardon Attorney.

Time after time, petitions were confiscated and the petitioner was reprimanded for trying to file same in the State Supreme Court.

On, or about, February 15th., 1937, a petition prescribed by statute of the State of Kansas, (Writ of Error) was prepared and was by the Parole and Pardon Attorney, returned and denied permission to file. Later a petition

to the United States District Court is ordered destroyed, but was later filed without being certified by a Welfare Worker. While this petition was pending, hearing correspondence was severed between the petitioner and the Court.

The affiant swears that every course of redress was closed to him and blocked in his efforts to properly file his petitions in his behalf in the Courts of the State and the United States.

Your affiant saith not further.

(Signed) C. H. COCHRAN,
Affiant.

AFFIDAVIT.

I, Emma E. Cochran, being duly sworn states, on June 9th, 1933, Kansas Prison Officials seized from me, C. H. Cochrans Appeal papers, refused to let me file them for him in the Supreme Court.

EMMA E. COCHRAN,
Affiant.

Subscribed and sworn to before me this 11th day of October, 1934.

BYRON E. TAYLOR,
[SEAL.] *Notary Public.*

My commission expires Dec. 7th 1937.

AFFIDAVIT.

STATE OF KANSAS,
County of Wyandotte, ss:

I, Emma L. Hinton being of lawful age and duly sworn deposes and states that on or about June 1st, 1934, C. H. Cochran an inmate of the Kansas State prison by written consent gave me power of Attorney to act in his behalf in the Supreme Court of Kansas to file and execute all transactions in that court. On June 15th, Mr: E. M. Stubblefield Deputy Warden Called me into his office and forbade me to take out any more papers belonging to C. H. Cochran.

I therefore could do nothing further. After Mr. Kirk Prather came in as Warden I was allowed to take the papers for keeping and they still remain in my hands.

(Signed) EMMA L. HINTON,
Affiant.

Subscribed and sworn to before me this 28th day of August, A. D. 1941.

(Signed) EL FREDA MCCULLOUGH,
[SEAL.] *Notary Public.*

My commission expires Sept. 4, 1940.

AFFIDAVIT.

STATE OF KANSAS,
County of Leavenworth, ss:

I, Charly Scudder, being duly sworn, make the following statement that I did on or about the 16th, day of October 1933, did issue worthless check to the Odorless Dry Cleaners, drawn on the First National Bank of Harper, Kansas paid to order of the Ordless dry cleaners of that City, the amount of $12.60, and endorsed by me as A. J. Messenger, pay to the driver of the Ordless Dry Cleaners truck, Paying account of $6.50, and receiving remainder in Cash.

I did willfully and intentionally defrauded the firm and absconded before payment of check.

Affiant farther swears not.

C. SCUDDER,
Affiant.

Sworn to and subscribed before me, this 1, day of March, 1935.

R. D. PAYNE,
[SEAL.] *Notary Public.*

My commission expires Apr. 18, A. D. 1937.

AFFIDAVIT.

STATE OF KANSAS,
County of Leavenworth, ss:

I, Frank Boaz, being of lawful age, after being duly sworn disposes and aver's that on or about the 14th day of June,

1933 C. H. Cochran ask me to offer correction to errors, if any, in his appeal documents.

After he had finished reading the papers he state that he was going to file them and went to the Deputies office. Upon his return he informed me that his papers had been confiscated by the Deputy Warden.

About a year later C. H. Cochran complained again, that he had been restrained from filing his appeal papers.

The affiant swears no further.

FRANK BOAZ,
Affiant.

Subscribed and sworn to before me this 9th day of Sept. A. D. 1940.

R. D. PAYNE,
[SEAL.] *Notary Public.*

My Commission expires April 18, 1941.

AFFIDAVIT.

STATE OF MISSOURI,
County of Lawrance, ss:

I, Susie E. Harper, being duly sworn deposes and state that on the 9th day of June 1933, I visited C. H. Cochran at the Kansas Prison, and aafter he had turned over his appeal documents to a lady there, I knew to be his mother, I saw the Deputy Warden come from the office and demand the papers, refused to return them and ordered the aged lady from the prison and I heard him tell C. H. Cochran that he could not now nor ever file his papers. then told an officer to punish him. I have not visited him since as the treatment of visitors did not appeal CIVIL. I have known C. H. Cochran for 30 years.

(Signed) SUSIE E. HARPER,
Affiant.

Subscribed and sworn to before me this 18th day of October, 1934.

(Signed) BYRON E. TAYLOR,
[SEAL.] *Notary Public.*

My commission expires Dec. 7th 1937.

3y

I, C. H. Cochran after being duly sworn deposes and says that the foregoing affidavits are true and copies of the affidavits that the State Officials have impounded and extracted from my petition. That was filed in the State Supreme Court, of Kansas At Topeka, Kansas.

C. H. COCHRAN,
Affiant.

No Counsel

STATE OF OKLAHOMA,
Tulsa County, ss:

IN THE DISTRICT COURT OF THE 21ST JUDICIAL DISTRICT OF THE STATE OF OKLAHOMA, SITTING IN AND FOR TULSA COUNTY.

JUDGMENT AND SENTENCE ON CONVICTION.

THE STATE OF OKLAHOMA, *Plaintiff;*

vs.

C. H. COCHRAN, *Defendant.*

JUDGMENT AND SENTENCE ON PLEA OF GUILTY FOR STEALING AN AUTOMOBILE

The prisoner, C. H. Cochran being personally present in open court and having been legally informed against and arraigned and having plead guilty of the crime of stealing an automobile charged in said information and upon being asked by the Court whether he had any legal cause to hsow why judgment and sentence should not be pronounced against him at this time and having no good reason why it shouldno be pronounced against him, and none apperaing to the Court does now hereby adjudge and sentence the said C. H. Cochran to be imprisoned in the state penitentiary at hard labor for the period of (5) five years for the said offense.

It Is Therefore Hereby Considered, and Adjudged by the Court that the said C. H. Cochran be committed to be imprisoned in the State reformatory at Granite in the state

of Oklahoma and confined in said reformatory for the term of five (5) years for said offense of stealing an automobile said term of sentence (continued:) to begin at and from the date of his delivery to the warden of said reformatoy and that said defendant pay the costs of this prosecution, taxed at $——— for which judgment is herevy rendered against the said defendant and thereupon the court notified the defendant of his right to appeal.

It Is Further Ordered and Adjudged by the court that the Sheriff of Tulsa County, State of Oklahoma transport said C. H. Cochran to the said Reformatory at Granite in the State of Oklahoma and the warden of said reformatory do detain the said C. H. Cochran according to this judgment sentence and order, and that the Clerk of this Court do immediately Certify, under the seal of the Court and deliver to the sheriff of Tulsa County, State of Oklahoma, a copy of this judgment sentence and order to accompany the body of the said C. H. Cochran to the said reformatory at Granite in the State of Okalhoma and to be left therewith at the said reformatory and the said copy to be the Warrant and authority of the said Sheriff of Tulsa County, State of Oklahoma, for transportation and imprisonment of the Said C. H. Cochran as hereinbefore provided.

Doe in open Court December 16. 1920.

REDMOND S. COLE,
Judge.

STATE OF OKLAHOMA,
Tulsa County.

IN THE DISTRICT COURT OF SAID COUNTY

I, Hohn D. Porter, Clerk of the District Court in and for said County and State do certify the foregoing to be a true and correct copy of the judgment and sentence in the case of the State of Oklahoma vs. C. H. Cochran No. 2074 as the same appears from the file and record in my office. Witness my hand and the seal of said court this 16th day of December, 1920.

JOHN D. PORTER,
Clerk.
By LUCILE LINTO,
Deput.

No. 2074

STATE OF OKLAHOMA, *Plaintiff*

vs.

C. H. COCHRAN, *Defendant*

Now this cause coming on to be heard: Plead guilty sentenced to State Reformatory at Granite, Oklahoma: five (5) years for stealin an automobile.

Received of James Woolley, Sheriff of Tulsa County, State of Oklahoma the following prisoner: C. H. Cochran, Stealing an Automobile.

GEO. A. WATERS,
Warden.
BY CHAS. CAMPBELL,
Deputy.

Recorded in Book 15 Page 676.

I, Cal Crum, County Clerk for Tulsa County, Oklahoma, hereby certify that the foregoing is a true, correct and full copy of the instrument herewith set out as appears of record in the Court Clerk's Office of Tulsa County, Oklahoma, this 14th day of Dec. 1940.

BY A. BRODIS,
Deputy.
CAL CRUM,
Clerk.

I, C. H. Cochran being of lawful age do swear on oath that the above is a true copy of the original.

C. H. COCHRAN.

Subscribed and sworn to before me this — day of —— A. D. 1940.

——,
Notary Public.

My commission expires —— A. D. 194 .

APPEARANCE DOCKET—CRIMINAL

No. 2174

Title of Cause: State of Oklahoma vs. C. H. Cochran.
Offense Charged: Stealing an Automobile.
Attorneys: —— —— County Attorney.

1920

Clerk's Cost Plaintiff:
Sheriff's Cost:
Miscellaneous:
Disbursements:
Credits;

Dec. 7 Filing Transcript
" " " Information
" " Defendant duly arraigned, pleaded not guilty
" 16 Defendant pleaded guilty, sentenced to Reformatory at Granite, Okla. for five years.
" 16 Commitment issued

"AFFIDAVIT."

STATE OF KANSAS,
County of Leavenworth, ss:

I, C. H. Cochran being of lawful age after being sworn disposes and says that the foregoing is a true and complete copy of the original.

C. H. COCHRAN,
Affiant.

Subscribed and sworn to before me this — day of —— A. D. 194 .

——,
Notary Public.

My Commission expires as notary public on the — day of —— A. D. 194 .

No Counsel.

Records will show that the petitioner was discharged Sept. 17, 1923 from the Oklahoma State reformatory and did not escape, according to records of County Attorney Page 63.

"AFFIDAVIT."

COUNTY OF LAWRENCE,
State of Missouri, ss:

I, Emma E. Cochran of lawful age being first duly sworn on oath disposes and says:

That I am the Mother of Chas. H. Cochran who was born on Dec. 12, 1901, in the City of Vernon, County of Lawrence, State of Missouri.

And that he did in the year of 1916, Suffered a severe case of Typhoid Fever which affected him to the extent that he was not sound of mind and was not responsible for his acts during the years 1916 to 1924. And the I did on or about the 1st Day of Dec. 1920, did influence him to enter a plea of Guilty in the Tulsa District Court at Tulsa, Okla. And that he did not know of results of such plea, and that he was not responsible for such irregularities on my part which resulted in his confinement in the State Reformatory at Granite, Okla.

The affiant sweats not further.

(Signed) EMMA E. COCHRAN,
Affiant.

Subscribed and swon before me this day 29 day of May A. D. 1935. Notary public in ad for the county of Lawrence and State of Missouri.

BRYON E. TAYLOR. (SEAL.)

My commission expires.
Dec. 7th, A. D. 1937.

"AFFIDAVIT."

STATE OF KANSAS,
County of Leavenworth, ss:

I, C. H. Cochran being of lawful age do upon oath swear that the foregoing affidavit is a true and complete copy of the original.

C. H. COCHRAN,
Affiant.

Subscribed and sworn to before me this — Day of — A. D. 194—.

——,
Notary Public.

My Commission expires as notary public on the — day of — A. D. 194—.

Re: Statement of County attorney, Page 63.

"AFFIDAVIT."

COUNTY OF DADE,
State of Missouri, ss:

I, W. L. Ferguson being of lawful age, first being duly sworn disposes and says:

That I have known Charles H. Cochran for the past 25 Years, and that he was on or about November 1916, afflicted with Typhoid fever of which to my knowledge was very severe and lasting several weeks and was a violent and lalignant case.

And further the affiant swears not.

(Signed) W. L. FERGUSON,
Affidavit,
President Farmers State Bank,
[SEAL.] *South Greenfield, Mo.*

Subscribed and sworn before me this day 6th of April A. D. 1935.

WALTER J. COX,
Notary Public in and for the County of Dade and State of Mo.

My commission expires Dec. 16th, 1938.

"AFFIDAVIT."

COUNTY OF DADE,
State of Missouri, ss:

I, H. H. Fuqua, being of lawful age, after being duly sworn disposes and says: That I have known Charles H. Cochran for the past 25 Years and that he did on or about 1916, suffer a very severe Ailment, of which Dr. L. S. Couplin (Deceased) pronounced Typhoid Fever and that he was in a very Serious condition during the long period of illness.

The deponent swears not further.

(Signed) J. H. FUQUA,
Affiant,
Merchant and Hardware Dealer,
South Greenfield, Mo.

Subscribed and sworn before me this day 6th of April A. D. 1935.

WALTER J. COX,
Notary Public in and for the
County of Dade and State of Mo. (SEAL.)

My commission expires Dec. 16, 1938.

STATE OF KANSAS,
County of Leavenworth, ss:

I, C. H. Cochran being of lawful age do upon oath swear that the foregoing affidavits are true and complete copy of the original.

C. H. COCHRAN,
Affiant.

Subscribed and sworn to before me this — day of —— A. D. 194—.

——— ———,
Notary Public.

My commission expires —— A. D. 194—.

Subscribed and sworn before me this 9 day of Sept., 1940 A. D.

My commission expires April 18, 1941 A. D.

R. D. PAYNE,
Notary Public.

Spring Term of Court: "2nd" Tuesday in May.
Fall Term: 1st Tuesday in December.

District Judge
Hon. Graham M. Torrance,
Bemidji, Minn.
Hon. Alfred L. Thwing,
Grand Rapids, Minn.
Hon. D. Harry Fullerton,
Brainerd, Minn.

OFFICE OF CLERK OF DISTRICT COURT, FIFTEENTH JUDICIAL DISTRICT

Paul Huff, Clerk,
Aitkin, Minnesota.

May 23, 1941.

Mr. C. H. Cochran,
Box 2, Lansing, Kansas.

DEAR SIR:

We are in receipt of your letter of May 21.

I have looked this record up, and find that Charles H. Smith also known as Charles H. Cochran was sent to the State Prison at Stillwater, Minnesota on or about the 8th day of October, 1917, for Burglary in the 3rd degree.

In the direct Testimony before the Court, he gave his birthdate as Dec. 12, 1895. This was on or about October 8, 1917. This would make him about 21 or 22 years old at that time. The Judge asked him further if that was correct, and he said it was correct. By this testimony before the Judge of District Court, he was not under 16 years of age when he was sent to the State Prison.

I hope this clears up the matter for you, and any further information requested will be immediately answered.

Yours truly,

(Signed) PAUL HUFF,
Clerk of District Court.

C.

Copy

Note date of Birth, 15 yrs. in 1917. Petitioner denies this conviction, and was not shown only to prejudice the Supreme Court.

Page 63, transcript.

OFFICE OF O. M. WHEAT,
County Attorney, Barber County,
Medicine Lodge, Kansas.

June 23, 1941.

Mr. Charles H. Cochran,
Box 2,
Lansing, Kansas.

DEAR DIE:

We have your letter of June 17th making inquiry as to whether this office has a warrant or information against you.

We have not checked any back records but so far as my personal knowledge goes there is nothing in the office against you.

We have checked with the office of Clerk of the District Court and with the Sheriff and neither office appears to have anything against you.

It would be possible that something was issued a number of years ago out of the Justice of Peace Court in this county, and, if so, we have no present knowledge of the matter.

We have checked the warrant record on the County Attorney Fee Book back to January 12, 1931, and nothing appears against you.

I am,
Very truly yours,

(Signed) O. M. WHEAT.

OMW/HW.

(Copy)

In re: Introduction statement of Sumner County Attorney John C. Potusie to Kirk Prather, Warden, K. S. P. Page 63. Clerk's transcript.

Court Officers: Clark A. Wallace, Judge. Max D. Hall, County Attorney. Jay B. Pearl, Clerk.

Court Meets Second Monday in January, Second Monday in April, Third Monday in June, Second Monday in October.

HOWARD CARRITHERS,
Sheriff of Harper County,
Hugh Willett, Undersheriff,
Office Phone 387; Residence 166.
Anthony, Kansas.

May 19th, 1941.

Mr. C. H. Cochran,
Lansing, Kansas.

DEAR SIR:

In answer to your letter of the 14th, will say that you were arrested Jan. 9, 1933 for forgery, and was discharged 4-14-33 by Judge Hay, and as far as we know that is all there has been recorded here.

(Signed) HOWARD CARRITHERS, Sheriff.
(Signed by) HUGH WILLETT, Undersheriff.

(Copy)

In re: Introduction statement of Sumner County Attorney John C. Potusie to Kirk Prather, Warden, K. S. P. Page 63. Clerk's transcript.

Oxford, Kansas,
May 21, 1941.

Mr. C. H. Cochran,

As to your questions I do not remember as to the jury mixing with the witnesses there was nothing to hinder and I don't think crime deserves the punishment.

(Signed) BURT DEVORE,
Oxford, Kansas.

This letter is from one of Juror of Case, the State vs. Cochran, on the 15th day of May, 1933.

(Copy)

BULLETIN.

June 25, 1941.

ALL CELL HOUSES:

Chief Justice Dawson has written the Board of Administration and, in turn, the board has written me an instruction in regard to notarizing and certifying habeas corpus proceedings, when they have not been properly prepared.

THE INSTRUCTIONS SAYS:

"Many of the cases coming before the court are infounded and should never have been permitted to reach the courts evidently some inmates are acting as attorneys on these cases within the institution and certainly such practice should not be permitted. It is our understanding that we have had a general agreement that when any convict believes he has a legitimate case of habeas corpus proceedings he should have it developed and presented by some one who has legal knowledge to properly present the case, and at no time should cases be notarized until they have been properly prepared and presented."

This instruction to all officers and inmates that this instruction of the Board of Administration will be followed in this institution.

M. F. AMBINE,
Warden.

Lansing, Kansas,
June 30, 1941.

Honorable Walter A. Huxman,
Judge of U. S. Circuit Court of Appeals,
Topeka, Kansas.

DEAR SIR:

On June 12th, I filed in the U. S. District Court for a writ of Habeas Corpus, only after it had been denied by the Supreme Court of Kansas without any kind of a hearing. The letter to Judge Hopkins no doubt will show you what irregularities has taken place. The petitioner never gave

any notice of Certiorari proceeding. But ask for a certified copy of filings to determine just what the Respondent or state Officials had removed unlawfully from the petition in the line of evidence and affidavits. Judge Hopkins proceeded to dismiss cause upon fraudulent representations by the Respondent. On June 27th, I moved for a stay of judgment after the case was dismissed. I want this dismissal and the reason looked into and investigated. I am herein enclosing a copy of my letter to Judge Hopkins and a letter from Mr. E. E. Clark, Clerk of the Supreme Court. I cannot see no reason why this application should be dismissed without proof of such proceedings. This case #651-H-C, was filed in the U. S. Court last September, 1940. Withdrew to exhaust state rights. Judge Hopkins instructed me when I had exhausted State rights to come back into the court and he would extend every facility of the court. Upon the return to the court I was met with this kind of procedure. I have ask him to cite Mr. Parker for this fraudulent representation and I expect something to be did.

Very respectfully,

C. H. COCHRAN.

CC/
Judge Hopkins,
Jay S. Parker,
U. S. Supreme Court.

Lansing, Kansas,
June 30, 1941.

Honorable Richard J. Hopkins,
Judge, U. S. District Court,
Topeka, Kansas.

DEAR SIR:

This personal letter regarding the above cause which was dismissed because of purported proceedings in Certiorari.

The motion filed by the State Attorney General was prepostirous and very untrue, I have not gave (Until June 27th) gave any notice of such proceedings into the United States Supreme Court.

I ask Mr. Clark of the Supreme Court of Kansas for a copy of all filings to examine the records to see what was extracted by the State. Never at any time indicated such a move. I think politic thing to do is to cite this action against Mr. Jay S. Parker, as the very precepts and purposes was to prevent evidence and testimony from the records. I have a letter from Mr. Clark showing no such motion or notice of Certiorari and I can hardly understand why that court granted the motion without proof. If any evidence was introduced, it was a very usual trick to defect the issue in the absence of the petitioner. I intend to inform Judge Huxman of this action, and ask that something be did. I propose that you call this act to your consideration and bring the records to your court and see or find where I had instructed the Respondent or Mr. Clark of such proceedings prior June 27th, last. On this date I moved for a stay of Judgment and not before. I am forwarding along with the letter of Mr. Clark, the dismissal of your court to Judge Huxman, also a copy to the U. S. Court. I hardly know what to make of this, and to happen in a Federal institution, it no doubt would flabergast any jurist that such was passed without inquiry of that court. I filed the writ to be heard in the court and I wanted a lawful hearing, within the Constitutional perview, I still do, but I would rather ask that Citation be exercised for the action of Mr. Parker.

Very respectfully,

C. H. COCHRAN,
Box No. 2.

CC/
Jay S. Parker.
Honorable Judge Huxman.
U. S. Supreme Court, C. C. of Appeals.

Lansing, Kansas,
June 30, 1941.

Senior Justice,
United States Circuit Court of Appeals.
10th District,
Denver, Colorado.

Hon. Sir:

Attached hereto you will find letter addressed to parties concerned. Please exercise what ever steps may be necessary to correct this unusual error of parties.

Yours very respectfully,

C. H. Cochran.

CC/
J. S. Parker.
Richard J. Hopkins, Judge.
Walter A. Huxman.
U. S. S. Ct.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF KANSAS FIRST DIVISION.

No. 651 H. C.

C. H. Cochran, *Petitioner*,

vs.

Milton F. Amrine, Warden of the Kansas State Penitentiary, *Respondent*.

Motion to Dismiss

Comes now the respondent, Milton F. Amrine, Warden of the Kansas State Penitentiary, and moves the Court to dismiss the writ of habeas corpus filed herein for the reason that said petitioner has applied to the Supreme Court of the United States for a writ of certiorari for review of the denial of an application for a writ of habeas corpus in the case of Cochran v. Amrine, 153 Kan. —, filed June 7, 1941.

Jay S. Parker,
Attorney General.
Jay Kyle,
Assistant Attorney General.
Attorneys for Respondent.

Filed June 18, 1941.

Howard F. McCue,
Clerk.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF KANSAS FIRST DIVISION

No. 651 H. C.

C. H. COCHRAN, *Petitioner*,

vs.

MILTON F. AMRINE, Warden of the Kansas State Penitentiary, *Respondent*.

JOURNAL ENTRY.

Now on this 21st day of June, 1941, the above entitled cause came regularly on for hearing. The respondent appeared by his attorney, Jay Kyle, Assistant Attorney General of the State of Kansas.

Whereupon, upon presentation to the Court of the motion to dismiss for the reason that the petitioner herein had applied for a writ of certiorari for review of the denial of an application for a writ of habeas corpus in the case of Cochran v. Amrine, 153 Kan. —, filed June 7, 1941, and upon proof offered, the Court finds that the application of the petitioner should be dismissed.

It is Therefore Considered, Ordered and Adjudged that the motion of the respondent to dismiss the application for a writ of habeas corpus be and the same hereby is sustained and the application for a writ of habeas corpus of the petitioner is dismissed.

RICHARD J. HOPKINS,
Judge.

Approved:
JAY S. PARKER,
JAY KYLE,
Attorneys for Respondent.

Filed June 21, 1941.

HOWARD F. MCCUE,
Clerk.

THE SUPREME COURT OF KANSAS, TOPEKA.

John S. Dawson, Chief Justice. W. W. Harvey, William A. Smith, Walter G. Thiel, Hugo T. Wedell, Harry K. Allen, Homer Hoch, Justices.
E. E. Clark, Clerk.
S. E. Else, Reporter.

June 24, 1941.

Mr. C. H. Cochran
Box 2, Lansing, Kansas

DEAR SIR:

Your letter of June 22 in re case No. 35 156, received and in answer will say that while the court had under consideration the merits of your case it also considered your objections to procedure.

Pursuant to your letter of the 18th I have been in process of preparing a certified transcript containing a copy of your petition, all pleadings and orders of the court and have it ready to forward. However, if you plan to file a motion to stay the judgment I think a copy of this motion and the order of the court should be incorporated in the transcript preceding my certificate. Unless you file your motion for stay within the next few days, I will complete and forward a transcript to you.

Yours very truly,

(Signed) E. E. CLARK,
Clerk Supreme Court.

EEC:R

IN THE SUPREME COURT OF KANSAS, TOPEKA.

John S. Dawson, Chief Justice. W. W. Harvey, William A. Smith, Walter G. Thiele, Hugo T. Wedell, Harry K. Allen, Homer Hoch, Justices.
E. E. Clark, Clerk.
S. E. Else, Reporter.

July 1, 1941.

Mr. C. H. Cochran
Box 2, Lansing, Kansas

DEAR SIR:

Your motion to hear case and the one to stay judgment were received and filed, submitted to the court, and I had expected a reulin before this and for that reason had not replied to your letter of the 26th. Since that time I have received copies of the motion to subpoena witnesses and have also submitted them to the court for its consideration, along with other matters pending in your case No. 35,156.

I anticipate that the court will rule on these motions either Thursday or Saturday of this week, and as soon as rulings are made I will complete the transcript you requested in connection with applying to the United States Supreme Court for a writ of certiorari.

I am unable to find in the records or files that you served any notice of any kind as to certiorari proceedings.

Yours very truly,

(Signed) E. E. CLARK,
Clerk Supreme Court.

(Copy of Original)

Copy.

STATE OF KANSAS, KANSAS STATE PENITENTIARY, LACEY M. SIMPSON, *Warden.*

Lansing, Kansas.

January 24, 1934.

Dr. James M. Scott,
Board of Administration,
Topeka, Kansas.

DEAR DR. SCOTT:

I am enclosing herewith a petition C. H. Gochran wishes to have filed in the Supreme Court.

Sincerely,

LACEY SIMPSON,
Warden.

(*Parole attorney does not approve.*)

Returned Jan. 27th 1934.

NOTE:

This letter has reference to Appeal papers.

Copy.

STATE OF KANSAS, EXECUTIVE DEPARTMENT, TOPEKA.

December 21st, 1936.

Mr. C. H. Cochran
Box 2, Lansing, Kansas.

DEAR SIR:

I have your letter of the 17th, and in answer wish to say that I do not have any evidence that you are not guilty of the crime you were convicted of in Oklahoma, and you admit the escape from jail which is a felony. Leaving out the Oklahoma *offense you should have been given a sentence of 10-20 years* under the habitual criminal act. You certainly cannot expect me to take your unsupported statement as sufficient to warrant me in finding that your conviction in Oklahoma was fraudulent or oppressive.

A man is presumed to be innocent until he has been found guilty by a court or jury and this guilty must be found beyond a reasonable doubt, but after conviction the burden is then on the defendant to prove his innocence.

The board of administration did not prevent you from appealing your case to the Supreme court. It is time to get down to business in this matter and produce the sworn statements as to the facts you must show to secure relief.

Very truly yours,

A. S. FOULKS,
Parole Attorney.

ASF/w

NOTE:

Refer: to Journal record of Oklahoma Commitment and Affidavits Attached.

Copy.

STATE OF KANSAS, EXECUTIVE DEPARTMENT, TOPEKA.

December 26, 1936.

Mr. Charles H. Cochran
Box 2, Lansing, Kansas

DEAR SIR:

In answer to your letter of the 24th I wish to advise you that the statement of your mother as to your mental condition when you pleaded guilty in Oklahoma is not sufficient. She may not be competent to pass on the question of your sanity.

I had a very severe case of Typhoid Fever myself many years ago but it did not affect my mind. The affidavits stating that you had Typhoid Fever would be of little value if I had the originals but the copies have no value to me. The warden did not swear to anything. I am afraid your hope is based mostly on your statement and your desire to be free. We do not disregard the judgments of the courts except upon very strong proof.

Very truly yours,

A. S. FOULKS,
Parole Attorney.

ASF/w

Re: Affidavits; Copies of which are attached to Writ of Certiorari.

Copy.

STATE OF KANSAS, OFFICE OF ATTORNEY GENERAL, TOPEKA.

September 2, 1937.

Mr. C. H. Cochran, No. 3608
State Penitentiary, Lansing, Kansas.

DEAR SIR:

I wish to acknowledge your letter of August 18, 1937, relative to your conviction and subsequent sentence to the penitentiary.

I regret that this office cannot aid you in the matter of securing your release, or in the matter of securing a rehear-

ing of your case. By statute, it is the duty of the members of this office to oppose any attempt, by any prisoner in the State Penitentiary, to secure his release therefrom by legal proceedings.

Regretting that I cannot aid you personally, I am

Very truly yours,

CLARENCE V. BECK,
Attorney General.

WES:AN

NOTE:

Re: efforts to secure orderly hearing in the State Court on Habeas Corpus.

(Copy)

THE SUPREME COURT OF KANSAS, TOPEKA

March 5, 1941.

Mr. Charles H. Cochran,
Lansing, Kansas.

DEAR SIR:

Answering your letter of February 23, I wish to advise that before this court would make any order requiring the delivery to you of court files, Pleadings, etc., it would be necessary for you to state in a formal application the particular pleading or paper you desire that is necessary in the preparation of the hearing of your case in this court.

I asked Mr. Bradfield, in the Governor's office, whether or not he had the papers in your case. He informed me that he had and that they would be delivered to the court whenever the court desired them. Today he informs me that he notified Mr. Amrine to deliver to you such papers as you need in the preparation of your appeal pending in this court.

To date neither Mr. Bradfield, Mr. Amrine nor anyone else has filed anything in opposition to your appeal.

Yours very truly,

E. E. CLARK,
Clerk, Supreme Court.

NOTE. Re: Seizure of motions and evidence addressed to the Court.

(Copy)

THE SUPREME COURT OF KANSAS, TOPEKA

March 15, 1941.

Mr. C. H. Cochran,
Box 2,
Lansing, Kansas.

DEAR SIR:

Herewith I enclose a copy of the order of the court relating to your application for a Writ of Habeas Corpus and your appeal from the district court of Leavenworth County, Kansas, No. 35156.

Answering your letter of March 12 beg. to advise that we have not as yet received the papers you mentioned, which you say should be in our possession. Neither the respondent nor Mr. Bradfield have filed any pleadings or other papers in connection with these cases.

Yours very truly,

E. E. CLARK,
Clerk Supreme Court.

OFFICE CLERK SUPREME COURT.

Topeka, Kan., Jul. 3, 1941.

DEAR SIR:

The Motions to hear for stay and to subpoena witnesses in the case of In re C. H. Cochran for writ of habeas corpus vs. Amrine. No. 35,156.

All motions denied.

Very respectfully,

E. E. CLARK,
Clerk Supreme Court.

THE SUPREME COURT OF KANSAS, TOPEKA

July 1, 1941.

Mr. C. H. Cochran,
Box 2,
Lansing, Kansas.

DEAR SIR:

Your motion to hear case and the one to stay judgment were received and filed, submitted to the court, and I had expected a ruling before this and for that reason had not replied to your letter of the 26th. Since that time I have received copies of the motion to subpoena witnesses and have also submitted them to the court for its consideration, along with other matters pending in your case, No. 35,156.

I anticipate that the court will rule on these motions either Thursday or Saturday of this week, and as soon as rulings are made I will complete the transcript you requested in connection with applying to the United States Supreme Court for a writ of certiorari.

I am unable to find in the records or files that you served any notice of any kind as to certiorari proceedings.

Yours very truly,

E. E. CLARK,
Clerk Supreme Court.

NOTE: Dates of Motio to dismiss.

A STATEMENT OF FACTS.

In Re C. H. COCHRAN.

To The Hon. Walter A. Huxman,
Governor of The State of Kansas,
Topeka, Kansas.

YOUR EXCELLENCY:

Herein contains the true facts in regards to the past record of your petitioner, C. H. Cochran, now confined in the Kansas state Prison, on a charge of forgery in the 2nd degree, for which your petitioner feels it his duty, as

a party concerned, to bring forth the facts that surrounds the errors of the judgment assessed in the case against your petitioner.

The records will show that your petitioner was denied the right to a fair and impartial trial for the following violations here cited.

1st. That he was denied the right of his lawful challenges to the jury.

2nd. That he was denied the right to testify in his own behalf or to subpeona witnesses in his behalf.

3rd. That the defense attorney, Harry B. Davis, did wilfully and knowingly gave false testimony that incriminated the defense.

4th. That the State failed to show that the defendant knew that the check was worthless, in so much that it failed to prove that the defendant wrote the check.

5th. That the judgment was erroneous, in that the defendant had not be properly convicted prior 1928, for which the State at that time assessed a double sentence.

The petitioner C. H. Cochran, was in 1919, while being accused of a crime in Oklahoma, was a child, age 17 and suffering from the malignant typhoid fever, was arrested in Tulsa, Oklahoma, and at the instigation of the officers, the mother of the defendant, did enter a plea that committed the defendant to five years in the State Reformatory, in this case the defendant did not plea guilty, but the mother of the defendant did throw the youth on the mercy of the court, and she herself entered the plea, against the defendants protests. To this error the petitioner furnishes the affidavits of his mother, to substantuate this statement. Your petitioner having been born on the 12th day of December, 1901, was at the time when the said crime, of larceny of a car, was to have been committed, was 17 years of age, mentally incompetent, was after the mother was unduly influenced by the Officers of the court, committed to the Reformatory for a crime that he could not of committed, in that he was not able, physically or mentally,

and that the Mother was not aware of the rights of the defendant, or finnancially able to aid the defendant, thinking that the leniency of the court was the best for the defendant. Later the automobile was discovered in the possession of the thief who pleaded guilty to the theft. Which exonerated the prisoner.

In 1927, your petitioner, while a resident of Wellington, Kansas did buy an automobile from a used car agent, carrying insurrence of fire, destruction and thief, to the protection of the agent. In 1927 your petitioner while driving in the evening with his wife and daughter, did not discover until he was very near, that a car was parked in the highway without lights or occupant, your petitioner turned the car over and demolished the car and left it in the right of way of the road. To this your petitioner notified the agent, and the agent collected the insurrence then sought to prosecute the petitioner for the balance due. The dealer had the petitioner arrested, charged him with concealing mortgage property. Your petitioner was threatened with a long term in the state prison, and being unable to pay they committed the defendant to the county jail. The sheriff left the prisoner in the office of the jail while he went off, the prisoner, ask to be fed and the wife of the sheriff said that she could not feed him until the sheriff arrived, the prisoner arose and went to a cafe and eat his supper, thereupon the sheriff sought the prisoner for escaping jail. The charge of concealing mortgage was dropped and the prisoner pleaded guilty to the charge of escaping jail and was sentenced to a double sentence of two to four years, in the state penitentiary for the said charge, using the said charge or commitment of Oklahoma against the prisoner. Your petitioner served the entire sentence and was discharged, with his citizenship restored. Of this crime of jail escape, your petitioner feels that he was guilty and pleaded so, but the judgment was in fault.

In 1931, your petitioner, went into the dry cleaning business in the City of Harper, Kansas. Become a good citizen and joined the church, tried to gain the respects of the community. In 1932 a driver for the firm which your petitioner operated, accepted a bad check in payment for cleaning did by his firm. Your petitioner, not knowing the

value of the check, cashed it at a place the he had did business with for several months and which he carried a monthly account, the account was paid with this check and returned to Harper, resumed his work and having not received notice of the protest of the check, either verbal or written, this will be ascertained by the testimony given by the one complaining witness E. E. Evans. At no time was the firm notified that the check was worthless, or even given an opportunity to make the check good. Criminal prosecution was started and the defendant was not at no time given the right to testify and show the jury where he received the check or how he came into procession, or the knowledge of its value. The state refused to subpeonea the wife of the defendant for a witness, as she handled the check before your petitioner, as she acted as cashier, she listed all checks handled by the drivers. Neither would the state subpeonea the driver of the truck that took in the check while enroute on his daily route.

To all of this was added the denial of the rights to testify in own behalf, the right to lawfully challenge the jury, the introduction of suborn testimony by the state, with wilfull knowledge that it was suborn and with malice to the defendant. The party that introduced the said testimony, later held a lengthy conversation with a member of the jury while the bailiff was absent.

Having tried your petitioner for the crime of forgery, making and passing of a check, the jury found your petitioner guilty of passing of which there was not one iota of evidence to show that he knew the check to be worthless.

Upon the opening of the trial, the county attorney made this statement to the jury which jeopardized the prisoners chances for a fair trial. statement: Gentlemen of the jury this man has been convicted for forgery before and it is your duty to find him guilty because of his former record * * *

Since your petitioner has been incarcerated, he has secured evidence in his behalf that both the verdict and judgment in the case is erroneous, unjust and prejudicial by the state.

Your petitioner was forcibly restrained from his timely appeal of his case by the last administration, this fact was

acknowledged by Mr. C. W. Wilson, Record Clerk at the prison to the pardon and parole attorney. I was denied to place before the court for reviewal of the constitutional violations and the right of processes that would of eliminated this unusual judgment in the case. I cannot sit out the reasons for this restraint.

Documentary evidence has been destroyed, all rights to correspond with the courts had been denied, all correspondence was confiscated that went to prove the erroneous process as well as judgment in this case.

Your petitioner feels that under the circumstances, the unjustness of the sentence, the abuse of the personal rights as well as his constitutional rights as well as the facts that can be acquired from the court records, that His Excellency, The Governor of the state of Kansas, will take into consideration, the fairness and justice in his petitioners cause and grant him a commutation of sentence, from life to that of a statute sentence of which he is entitled to, under the statute for which he was charged, for forgery 2nd degree which calls for one to ten years.

Your petitioner, being an indigant man and not able to employ competent counsel has ask Mrs. Emma L. Hinton, Mother Hinton, to represent and lay before His Excellency, the facts as which your petitioner feels is meritoreous and of which he leaves the findings in the fairness and justness of His Excellency, the Governor.

Your petitioner was convicted in the District Court of Sumner County, for the crime of forgery 2nd degree, May 15th, 1933, and the reason for the increased penalty was; an invalid Reformatory commitment, and the commitment on a plea of guilty to escaping custody of the law, in the Sumner county district court, in 1928. In such case the State assessed a double sentence, for the Oklahoma commitment in 1919, which was in want of justice and proper procedure, and was void for neglect of the court to recognize the rights of the defendant. And that evidence to support such contentions should be recognized in the meritorious cause of the petitioner, and the outstanding facts regarding the case of which he is now serving time, a life sentence for a crime that he was not able to defend himself, and was not guilty of any knowledge that the check was worthless,

and could not therefore, be guilty of a crime with a wilful intent to commit one.

Therefore, Your Excellency; your petitioner prays that due consideration and mercy be extended to your petitioner, in the name of justice.

Respectfully submitted,

CHARLES H. COCHRAN,
Petitioner.

AFFIDAVIT.

To whom these presents may concern;

Greetings,

I, C. H. Cochran being of lawful age, solemnly swear that I was born on the 12th, day of December, 1901, in the city of Verona, county of Lawrence, State of Missouri, of American parentage and that I, the said C. H. Cochran, am a citizen of the United States and the state of Missouri, And that the foregoing statements of facts are true in every detail. Present age, 36 yrs. 2 months.

C. H. COCHRAN,
Affiant.

STATE OF KANSAS,
County of Leavenworth, ss:

Subscribed and sworn before me this 7 day of February A. D. 1938.

R. D. PAYNE,
Notary Public. (SEAL.)

My Commission Expires, 18 day of April A. D. 1941.

STATE OF KANSAS, EXECUTIVE DEPARTMENT, TOPEKA.

March 6, 1939.

Mr. C. H. Cochran
Box 2, Lansing, Kansas.

DEAR SIR:

After careful consideration of your application for executive clemency, the same has been denied.

Yours very truly,

LEROY BRADFIELD,
Parole Attorney.

LB/w

STATE OF KANSAS, EXECUTIVE DEPARTMENT, TOPEKA.

July 6, 1939.

Mr. C. H. Cochran
Box 2, Lansing, Kansas.

DEAR SIR:

In answer to your letter of the 2nd, please be advised that I do not believe an application for executive clemency in your case would be acted upon favorably at this time. However, you may do as you wish with regard to advertising. The records here show that your application was denied on March 6, 1939, and it would be very unusual to take favorable action in the matter, such a short time after the application was denied. Also I think I should advise you that in the event application for clemency is made, the matter will be considered and action taken, on the theory that you are guilty, of the crime for which you are serving.

I will be glad to talk to you the first time I am at the institution for the purpose of hearing grievance cases, if the warden places your name on the list of those to be heard.

Yours very truly,

LEROY BRADFIELD,
Parole Attorney.

LB/w
Coram Nobis not recognized in Kansas Law.

IN THE SUPREME COURT OF THE UNITED STATES.

No. 510

In the matter of CHARLES H. COCHRAN for the Writ of Certiorari, *Petitioner,*

vs.

THE STATE OF KANSAS, *Et Al.*

AFFIDAVIT.

I, Charles H. Cochran after being duly sworn, solemnly avers that during the period of 1933 up until now, I have

been consistantly denied every right to a lawful, proper and orderly redress in the courts of the State of Kansas, because of personal molestation, unlawful seizure of evidence, impounding of applications and by coercion by the agents and officers of the State of Kansas.

I further swear that during the time this case was pending in the Kansas Supreme Court, records, evidence and mail was "impounded and seized by the Respondent and during that time I sent to the Clerk of the Supreme Court a person by the name of Emma L. Hinton to make such representations to the court and request that such papers be submitted to the court, all of which was denied and the evidence and pleadings were never submitted that the court could review them.

These papers were held and impounded by Mr. LeRoy Bradfield, Pardon attorney. (See letter from Mr. E. E. Clark, Clerk of the Supreme Court of Kansas on file in the case at bar)

The petitioner and affiant swears that the conviction upon which the State of Kansas has held to be valid in the State of Oklahoma, was not procured by Due process of law, in that said commitment was contrived by undue influence of the Tulsa County Oklahoma authorities by insistence upon the mother of the defendant who was only 18 years of age and was not familiar with his constitutional rights, as to the right of counsel, and that the mother influenced the defendant to plead guilty to a charge which was a felony and to which the defendant was committed to the State Reformatory, and that such confinement does come under the provisions of the Statutory law to enhance the punishment imposed upon the affiant.

I further swear that the case No. 510 Cochran *vs.* The State of Kansas and others, was unlawfully impounded for 21 days after the said application was mailed to the Court, and that evidence and pleadings are still being impounded and seized while being mailed to the Court. That I am not permitted to carry an orderly correspondence with the Court.

I further swear that the Statement made by the Sumner County Attorney is very untrue in many details and that he has deviated from the pertinent allegations in the Writ.

I further swear that I owned and operated the Odorless dry cleaners of Harper, Kansas and that I did not personally receive a check of which I am charged in the information and that not one iota of evidence was introduced, to show that I knew that said check was worthless.

I further allege that I am not guilty of any crime or knowledge that one had been committed.

I further swear that the affidavits and evidence that has been consistantly "impounded by the officers and agents of the State was material in the preponderance of the evidence and that the Supreme Court of Kansas has and did knowingly denied the affiant the right of any and all defense in the case at bar.

The evidence having been procured through efforts of the affiant has been from time to time seized and destroyed to prevent the affiant from producing pertinent evidence before the court.

Affiant saith not further.

C. H. COCHRAN,
Affiant.

Witnesses.
Fred Cook
W. Walters.

C. H. COCHRAN,
Affiant.

Subscribed and sworn to before me this 16th day of September A. D. 1941. John M. Gerber, Notary Public in and for the County of Leavenworth.

My commission expires on the 27th day of January A. D. 1942.